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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/635,053 | 08/09/2000 | Shin Terao | F-6614 | 5763 |

7590 03/26/2003
Jordan and Hamburg
121 East 42nd Street
New York, NY 10168

EXAMINER

WHITE, CARMEN D

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| ART UNIT | PAPER NUMBER |
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3714

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,053

Applicant(s)

TERAO ET AL.

Examiner

Carmen D. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick.

Regarding claims 1-6, 10-13 and 17-18, Sitrick teaches a music system that comprises a first music apparatus for reproducing music for a first player; and a second music apparatus that communicates with the first music apparatus by way of a communication path; the first apparatus includes a first music data storage; a first music reproducer; a first start instructor and a first reproduction controller; the second apparatus including a second music data storage device; a second music reproducer and a second start instructor (abstract; fig. 1A; fig. 4). While Sitrick teaches the feature of timing-synchronization for synchronizing the music reproduction between the first and second music game apparatuses (Fig. 16; Fig. 18; col. 2, lines 66-67 through col. 3, lines 1-9), Sitrick is silent as to the explicit use of a count value that corresponds to lost time and a position calculator for receiving the count value in order to synchronize the music reproduction timing. The examiner takes official notice that the use of counters for synchronization is well known in the art. It would have been obvious to include the use of counters in Sitrick for determining the synchronization of the music in order to

provide a less complex system of synchronization; thereby decreasing the amount of data transferred, which would speed up data transmission.

Regarding claims 7-8, 14-15, and 19, Sitrick further teaches motion input units for the users that corresponds to the synchronization of the music (Fig. 9; col. 21, lines 16-48).

Regarding claim 20, Sitrick teaches all the limitations of the claims as discussed above. With respect to the additionally amended claim features of the first and second start instructor for instructing the start of reproduction of the music number upon receipt of a first signal from an *operation of a switch* by the first or second player, Sitrick further teaches the start of the music reproduction by the use of switches at the user's music game apparatuses (col. 8, lines 29-32).

Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick in view of Takai.

Regarding claims 9 and 16, Sitrick teaches all the limitations of the claims as discussed above. While Sitrick teaches motion sensors that correspond input from one of the first and second game players, Sitrick lacks teaching that these motion sensors are a plurality of stepping sections onto which the user steps to input stepping motions. In an analogous music apparatus, Takai teaches the use of a progress controller that receives a plurality of sensed foot positions for inputs to various types of dances. The display of Takai shows the plurality of steps obtained from the user stepping onto different sections of the input sensors, to produce successive foot movements on a display (Last 9 lines of the abstract; Fig. 3). Takai further senses stepping motions from

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more than one user {a man and a woman dancing together} and shows sections for each of their steps (see Fig. 3). It would have been obvious to a person of ordinary skill in the art to utilize the stepper motion sensors of Takai in the invention of Sitrick in order to sense the users foot motions more precisely as the user moves and reacts to the musical compositions.

Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hector et al (4,720,789) teaches a plurality of stepping sections for input into a game apparatus.

Examiner's Response to Applicant's Remarks

Applicant argues that Sitrick does not teach the feature of an additional player being able to participate in the musical play in the middle of a performance already commenced. However, Applicant is arguing language that is different from the claim language. Applicant's instant claims do not include language that indicates that a player is entering a performance in the middle of the session.

Further, Applicant argues that Sitrick is silent regarding the transfer of data from the second data storage to the second music reproducer. However the examiner asserts that Sitrick discloses this feature. Sitrick teaches that a first, second, third, etc., user can call up a stored composition, from the remote music library (Fig. 1A, #120) in order to play it.

Finally, Applicant argues that Takai does not teach the use of a plurality of stepping sections. The examiner disagrees and has clarified her position above as to where this feature is taught by Takai. Further, the examiner cites the Hector et al reference to show a clearer teaching of a number of *physically divided* sections for a player to step onto in order to provide input to a game apparatus (see Fig. 1, #28-#44).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for Non-official communications and 703-305-3579 for Official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.


cdw


S. THOMAS HUGHES
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